

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 177 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME-TAX

Versus

SUHRID S SARABHAI TRUST NO 17

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Appearance:

MR MANISH R BHATT for Petitioner  
MR RK PATEL for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

At the instance of the Assessee, the following question is referred to this Court under Sec. 256 (1) of the Income Tax Act, 1961.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the

assessee was not entitled to exemption  
u/s. 47(vii) of the Income Tax  
Act, 1961?"

2. At the instance of the Revenue, the  
following question is referred to this Court under Sec.  
256(1) of the Income Tax Act, 1961.

"Whether, the Appellate Tribunal is right  
in law and on facts in holding that when  
the assessee received shares, debentures  
and bonds of amalgamated companies, there  
was no transfer under Section 2(47) of  
the I.T. Act, 1961 and consequently no  
capital gains tax could be charged?"

3. So far as the question referred to at the  
instance of the Assessee is concerned, it is required to  
be answered against the Assessee and in favour of the  
Revenue in view of the decision of this Court in the case  
of CIT vs. Gautam Sarabhai Trust No.31 (173 ITR 216).

4. So far as the question referred to at the  
instance of the Revenue is concerned, it is not required  
to be answered in view of the decision of this Court in  
the case of CIT Vs. Leena Sarabhai, reported in (1994)  
120 CTR (Guj.) 300. Accordingly, the question at the  
instance of the Assessee is answered against the Assessee  
and in favour of the Revenue and the question at the  
instance of the Revenue is not answered. This reference  
is disposed of accordingly with no order as to costs.

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